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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,225	06/26/2003	Gary L. Koteskey	11074/009	5907

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INDIANAPOLIS OFFICE 27879
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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT PAPER NUMBER

3635

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,225

Applicant(s)

KOTESKEY, GARY L.

Examiner

Chapman E Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-912 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 10, 11, 13 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejection under this section made in this office action.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 7-9, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hume (5608998). Hume discloses a molded plastic segment 10 for use in a subterranean structure of the type comprising a cylindrical body made up of at least one tier of segments (figure 6). Alternatively, Hume discloses subterranean structure having a cylindrical body about a vertical axis made up at least one ring and each ring consist essentially of a plurality of horizontally adjacent segments 10 of molded plastic, each segment comprising:

- A wall segment 10 cylindrically curved about a vertical axis having an inside and outside surface, vertical side edges and horizontal top edges and bottom edges; see figures 1-2 and 6;
- First of vertical side edges 18 including a protruding mating element not vertically tapered;
- A second vertical side edge including a slot 16/14 that is not vertically tapered ;
- The vertically side edges including confronting surfaces adapted to be brought into abutting relationship between adjacent segments of similar

construction (figure 4) but the adjacent segments are not in an interlocking engagement .

- The segment comprises a flange 22 protruding vertically from one of the horizontal edges to overlap a portion of the inside and outside surfaces of a vertically adjacent segment; see figure 5;
- A plurality of ribs/dimples 12 on the outside surface;
- A cover 50 contacting the horizontal top edge of the uppermost rings; see figure 6
- Gas seal means for securing the cover to the upper most rings

However, Hume discloses various interlocking fasteners for the horizontal attachment of segments 10. see figures 3 and 5. It would have been obvious to employ and interlocking fastener for the vertical side edges in order to provide a stronger means of attachment avoiding inadvertent detachment of the vertical edges. The interlocking fasteners are not of the dovetail (tapered) type. Such a choice is not viewed as critical to the overall function of the device; one of ordinary skill in the art would have appreciated the types of interlocking fasteners capable in aiding to fulfill the overall and intended function and purpose of the segment.

For the method claims:

With the above modification of interlocking mating parts, it is clear that the mating elements will be joined by sliding the protruding element into the slot of a ring of segments; it is clear this step is repeated with rings as shown in figure 6. In order to

insert the protrusion into the slot it is clear that the ring has to be arped to insert the bottom edge of the protrusion into the top edge of the slot. Further, Hume teaches stacking one ring upon another of similar structure so that the protruding flange overlaps a portion of one of the inside and outside surfaces of another ring. Hume discloses adding as many rings as needed to form the proper and desired height structure. If one can add to provide the desired and needed height it is obvious that rings can be subtracted if too may rings are added before the adhesive is added. A bonding agent of adhesive is added; the same is compatible with the polymers forming the segments.

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hume in view of Fuller (5979117). Hume lacks the plate with the recited elements of claim 20. Fuller discloses a cover plate having an upper and lower surface. The lower surface includes a rime for contact with the top edge. See figure 4. A plurality of rods 52/50 coupled to the lower surface for movement relative to the plate . See figures 4-6. Each rod includes a proximal and a distal end. The distal end protrudes into a receiving pocket 54 located on the inside surface of the subterranean member structure. A cam 44/45/60 is coupled to the proximal end of each rod; the cam being movable from the upper surface of the plate to cause movement of the proximal ends of the rods between

locked and unlocked position for securing the cover to the top edge or ring. The cover further comprising an opening 14 in the plate with a central portion of the cam for receiving a key 16. The cam including a niche located below the plate opening for receiving a corresponding key 60 inserted through the plate opening. The niche/keyway 60 facilitating movement of the cam by the key to move the rods between the locked and unlocked position. The opening in the plate includes an edge shaped to capture any key inserted in the cam niche when the cam is moved to the unlocked position.

It would have been obvious to one of ordinary skill in the art to modify the plate or cover of Hume to include the camming device and keys of Fuller in order to provide an additional method to effectively seal the cover on the subterranean structure.

Claim(s) 4-5, 10-11, 13, 19 is/are objected to as depending on a rejected claim but would be considered as allowable if amended to include the base claim and any intervening claims

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeanette Chagnon
Primary Examiner